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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 GREGORY ALEXANDER,

11 Plaintiff,

12 v.

13 FOSS MARITIME COMPANY LLC, *et al.*,

14 Defendants.
15

IN ADMIRALTY & AT LAW

CASE NO. C19-00370-RSM

ORDER GRANTING MOTION TO
TRANSFER VENUE

16 This matter comes before the Court on Defendant Foss Maritime Company, LLC (“Foss
17 Maritime”) and HDR Marine, LLC (“HDR Marine”)’s Motion to Transfer Venue, Dkt. #16.
18 Defendants’ Motion is unopposed by Plaintiff Gregory Alexander.

19 Plaintiff brings this personal injury action against Defendants for an alleged accident that
20 occurred near Endicott, Alaska on or about July 29, 2017 while Plaintiff was serving as First
21 Mate on board the tug Emmett Foss. Dkt. #1 at 1-2. Defendants Foss Maritime and HDR Marine
22 move to transfer this case to the United States District Court for the District of Alaska, without
23 fees or costs. Dkt. #16 at 1. Plaintiff has indicated his consent to the transfer in a filing titled
24 “Agreed Order Transferring Venue,” jointly signed by Plaintiff and Defendants Foss Maritime
25 and HDR Marine. Dkt. #17. However, because *in rem* Defendant Emmett Foss has not entered
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1 an appearance in this matter, the Court cannot consider this filing a stipulated motion from all
2 parties.

3 Under 28 U.S.C. § 1404, this Court has discretion to transfer this case in the interests of
4 convenience and justice to another district in which venue would be proper. *See Jones v. GNC*
5 *Franchising, Inc.*, 211 F.3d 495, 498 (9th Cir. 2000). Specifically, Section 1404(a) states:

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7 For the convenience of parties and witnesses, in the interest of justice, a
8 district court may transfer any civil action to any other district or division
9 where it might have been brought or to any district or division to which all
parties have consented.

10 28 U.S.C. § 1404(a). The purpose of this statute is to “prevent the waste of time, energy, and
11 money and to protect litigants, witnesses and the public against unnecessary inconvenience and
12 expense.” *Pedigo Prods., Inc. v. Kimberly-Clark Worldwide, Inc.*, No. 12-CV-05502-BHS, 2013
13 WL 364814, at *2 (W.D. Wash. Jan. 30, 2013) (quoting *Van Dusen v. Barrack*, 376 U.S. 612,
14 616 (1964)).

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16 In the Ninth Circuit, district courts typically apply a nine-factor balancing test to
17 determine whether to transfer a case under § 1404(a), examining: “(1) the location where the
18 relevant agreements were negotiated and executed, (2) the state that is most familiar with the
19 governing law, (3) the plaintiff’s choice of forum, (4) the respective parties’ contacts with the
20 forum, (5) the contacts relating to the plaintiff’s cause of action in the chosen forum, (6) the
21 differences in the costs of litigation in the two forums, (7) the availability of compulsory process
22 to compel attendance of unwilling non-party witnesses, [] (8) the ease of access to sources of
23 proof, and (9) the public policy considerations of the forum state.” *Jones*, 211 F.3d at 498–99.

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25 Plaintiff resides in Arizona. Dkt. #1 at 1. He filed this case in the U.S. District Court for
26 the Western District of Washington because Plaintiff’s primary treating doctors and the adjuster
27 reside here, and because Defendant Foss Maritime has its principle office in the District. *Id.* at
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1 2. Plaintiff also states that, upon information and belief, the tug Emmett Foss is moored within
2 the Western District of Washington. *Id.* at 3.

3 However, Defendants Foss Maritime and HDR Marine state that the tug Emmett Foss is
4 located in Alaska, was in Alaska at the time of the alleged incident, and will remain in Alaska
5 for the foreseeable future. Dkt. #8 at ¶ 5. They also clarify that Defendant HDR Marine was the
6 bareboat charterer and operator of the Emmett Foss, and its principal place of business is Seward,
7 Alaska. *Id.* at ¶¶ 3, 11. HDR Marine also employs most of the witnesses that maintained a
8 working relationship with Plaintiff and have personal knowledge of the accident and the
9 conditions at the accident site. Dkt. #16 at 5. Plaintiff also appears to agree to transferring this
10 case to the District of Alaska. *See* Dkt. #17.

13 Based on the record before it, the Court is convinced that this case might have been
14 brought in the District of Alaska, and that it would be more convenient to all parties involved,
15 including the *in rem* defendant and known witnesses to the accident, for the case to proceed in
16 that district. *See* Dkt. #16 at 3-6.

18 Having reviewed the relevant pleadings and the remainder of the record, the Court hereby
19 ORDERS that Defendants' Foss Maritime and HDR Marine's Motion to Transfer Venue, Dkt.
20 #16, is GRANTED. This matter is hereby TRANSFERRED to the United States District Court
21 for the District of Alaska for all further proceedings.

24 DATED this 15 day of October, 2019.

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27 RICARDO S. MARTINEZ
28 CHIEF UNITED STATES DISTRICT JUDGE